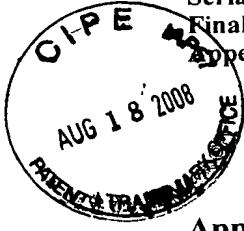


CUSTOMER NO. 24498
Serial No.: 10/535,115
Final Office Action dated: 05/02/08
Appeal Brief dated: 08/12/08

PATENT
PU020459



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
Before the Board of Patent Appeals and Interferences

Applicant : Michael Anthony Pugel
Serial No. : 10/535,115
Filed : May 16, 2005
Title : APPARATUS AND METHOD FOR RECEIVING EMERGENCY
ALERT SIGNALS
Examiner : Daryl C. Pope
Art Unit : 2612

APPEAL BRIEF

Mail Stop: AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

May It Please The Honorable Board:

This is Appellant's Brief on Appeal from the Final Rejection of claims 1–22. Please charge the \$510 fee for filing this Brief, and the \$120 fee for the Petition for a One-Month Extension of Time, to Deposit Account No. 07-0832. Appellant waives an Oral Hearing for this Appeal.

Please charge any additional fees or credit overpayments to the above-indicated Deposit Account. Enclosed is a single copy of the Brief.

I. REAL PARTY IN INTEREST

The real party in interest of Application Serial No. 10/535,115 is the Assignee of record:

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F-92100

08/18/2008 MGBREM1 00000078 10535115

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August 13, 2008
Date *08/18/2008 MGBREM1 00000078 070032 10535115*
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II. RELATED APPEALS AND INTERFERENCES

There are currently, and have been, no related Appeals or Interferences regarding Application Serial No. 10/535,115 known to the undersigned attorney.

III. STATUS OF THE CLAIMS

Claims 1-22 are rejected and the rejection of claims 1-22 are appealed.

IV. STATUS OF AMENDMENTS

All amendments were entered and are reflected in the claims included in Appendix I.

V. SUMMARY OF CLAIMED SUBJECT MATTER

This summary sets forth exemplary reference characters and pages and line numbers in the specification where an embodiment of each separately argued claim is illustrated or described. The identification of reference characters and pages and line numbers does not constitute a representation that any claim element is limited to the embodiment illustrated at the reference character or described in the referenced portion of the specification.

Independent claim 1 claims a television signal receiver having an emergency alert function, comprising: first tuning means for tuning first signals including video signals when said television signal receiver is in an on mode; second tuning means for tuning second signals including emergency alert signals when said television signal receiver is in one of said on mode and an off/standby mode; and wherein said emergency alert function is activated if said emergency alert signals indicate an emergency event corresponding to a user selected geographical area and a user selected event type. (page 4, lines 10-23; page 6, lines 10-19)

Dependent claim 2 includes all of the features of claim 1, along with a second tuning means included in the modem apparatus. (page 11, lines 9-33)

Dependent claim 3 includes all of the features of claim 2, along with the additional feature that the modem apparatus is internal to the television signal receiver. (page 11, lines 15-20)

Dependent claim 4 includes all of the features of claim 2, along with the additional feature that the modem apparatus is external to the television signal receiver. (page 11, lines 15-20)

Dependent claim 5 includes all of the features of claim 4, along with the additional feature that the modem apparatus includes alert means for providing an alert output when said emergency alert function is activated. (page 11, lines 20-33)

Dependent claim 6 includes all of the features of claim 5, along with the additional feature that the alert means includes a visual output element. (page 13, lines 17-20)

Dependent claim 7 includes all of the features of claim 5, along with the additional feature that the alert means includes an aural output element. (page 13, lines 17-20)

Independent claim 8 claims a method for controlling a television signal receiver having an emergency alert function, comprising: enabling a first tuner to tune first signals including video signals when said television signal receiver is in an on mode; enabling a second tuner to tune second signals including emergency alert signals when said television signal receiver is in one of said on mode and an off/standby mode; and wherein said emergency alert function is activated if said emergency alert signals indicate an emergency event corresponding to a user selected geographical area and a user selected event type. (page 4, lines 10-23; page 6, lines 10-19)

Dependent claim 9 includes all the features of claim 8, along with the additional feature that a second tuner is included in the modem apparatus. (page 11, lines 9-33)

Dependent claim 10 includes all the features of claim 9, along with the additional feature that the modem apparatus is internal to the television signal receiver. (page 11, lines 15-20)

Dependent claim 11 includes all the features of claim 9, along with the additional feature that the modem apparatus is external to the television signal receiver. (page 11, lines 15-20)

Dependent claim 12 includes all the features of claim 11, along with the additional feature that an alert output is provided via an alert system of the modem apparatus when the emergency alert function is activated. (page 11, lines 20-33)

Dependent claim 13 includes all the features of claim 12, along with the additional feature that the alert output includes a visual output. (page 13, lines 17-20)

Dependent claim 14 includes all the features of claim 12, along with the additional feature that the alert output includes an aural output. (page 13, lines 17-20)

Independent claim 15 claims a modem apparatus having an emergency alert function, comprising: a modulator operative to modulate upstream signals provided to a network; a demodulator operative to demodulate downstream signals provided from said network, said downstream signals including emergency alert signals capable of activating

said emergency alert function; an alert system operative to provide an alert output when said emergency alert function is activated; and wherein said emergency alert function is activated if said emergency alert signals indicate an emergency event corresponding to a user selected geographical area and a user selected event type. (page 11, lines 9-27; page 12, lines 1-9)

Dependent claim 16 includes all the features of claim 15, along with the additional feature that the alert system includes a visual output element. (page 13, lines 17-20)

Dependent claim 17 includes all the features of claim 15, along with the additional feature that the alert system includes an aural output. (page 13, lines 17-20)

Dependent claim 18 includes all the features of claim 15, along with the additional feature that the network includes a cable network. (page 11, lines 10-11)

Dependent claim 19 includes all the features of claim 15, along with the additional feature that the network includes a DSL network. (page 11, lines 10-11)

Dependent claim 20 includes all the features of claim 15, along with the additional feature that the modem apparatus is operatively coupled to an external device, and the external device provides a second alert output when the emergency alert function is activated. (page 11, lines 18-27)

Dependent claim 21 includes all the features of claim 20, along with the additional feature that the external device includes a television signal receiver. (page 11, lines 15-18)

Dependent claim 22 includes all the features of claim 20, along with the additional feature that the external device includes a computer. (page 11, lines 15-18)

VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

The Examiner has rejected claims 1-22 as anticipated under 35 USC 102(b) by Belcher et al. (U.S. Patent No. 03993955B1) ("Belcher").

VII. ARGUMENT

Rejection of Claims 1 – 22 under 35 USC 102(b) over Belcher et al. (U.S. 03993955B1).

Claims 1-7

The invention as recited in claims 1-7 is not anticipated by Belcher, as asserted by the Examiner. In the present case, the Examiner has failed to show that Belcher teaches or suggests all of the limitations of claim 1.

The present invention, as recited by claim 1, describes a television signal receiver having an emergency alert function, comprising: first tuning means for tuning first signals including video signals when said television signal receiver is in an on mode; second tuning means for tuning second signals including emergency alert signals when said television signal receiver is in one of said on mode and an off/standby mode; and wherein said emergency alert function is activated if said emergency alert signals indicate an emergency event corresponding to a user selected geographical area and a user selected event type.

It is respectfully asserted that Belcher fails to disclose “second tuning means for tuning second signals including emergency alert signals when said television signal receiver is in one of said on mode and an off/standby mode; and wherein said emergency alert function is activated if said emergency alert signals indicate an emergency event corresponding to a user selected geographical area and a user selected event type,” as described in independent claim 1.

In contrast, Belcher teaches a system “in a two-way cable television communications system wherein a central or master station is coupled to a plurality of remote stations through a coaxial cable network, each remote unit is provided with means for decoding an emergency alert transmission signal from the master station to generate an internal signal to sound an annunciator, alerting a subscriber or viewer at the remote station that an emergency communication is forthcoming, switching on a television receiver at the remote station, if the television receiver is not on, and tuning the television receiver through a converter to a predetermined television channel to condition the television receiver to receive emergency communications from the master station.” (Belcher Abstract)

The Office Action asserts that Belcher discloses: “1) the television signal receiver having an emergency alert function having first and second tuning means are met by the two way cable television communications system(10) including television receiver(26); tuners(27)(see: column 4, lines 1 et seq; column 5, lines 1-37).” (Office Action, page 2)

However, Belcher fails to disclose a second tuning means for tuning emergency alert signals when a television signal receiver is in an on mode or an off/standby mode as asserted by the Office Action. In contrast, Belcher only discloses a single tuner providing only one type of tuning, which tunes to a predetermined television channel regardless of whether the television is on or off. The single tuning means, as disclosed in Belcher, are not equivalent to a first and second tuning means, where the second tuning means tune second signals including emergency alert signals when the television signal receiver is in either an on mode or an off/standby mode, as described in the present claim 1.

Belcher also fails to disclose two tuning means wherein the second tuning means tune second signals including emergency alert signals where the emergency alert function is activated if the emergency alert signals indicate an emergency event corresponding to a user selected geographical area and a user selected event type. In contrast, Belcher does not disclose and is not concerned with allowing a user to select a geographical area or an event type for receiving emergency alerts. Belcher merely tunes a television tuner to a designated, and predetermined, emergency alert channel to provide the subscriber with emergency information. There is no mention in Belcher of allowing a user to customize the type of emergency information a user wishes to receive based on a user selected geographical area and event type, as described in present claim 1.

Therefore, Belcher fails to disclose “second tuning means for tuning second signals including emergency alert signals when said television signal receiver is in one of said on mode and an off/standby mode; and wherein said emergency alert function is activated if said emergency alert signals indicate an emergency event corresponding to a user selected geographical area and a user selected event type,” as described in claim 1.

In view of the above remarks, it is respectfully submitted that there is no 35 USC 112 enabling disclosure provided by Belcher that makes the present invention as claimed in claim 1 unpatentable. Since dependent claims 2-7 are dependent from allowable independent claim 1, it is submitted that they too are allowable for at least the same reasons that independent claim 1 is allowable.

Claims 8-14

The invention as recited in claims 8-14 is not anticipated by Belcher, as asserted by the Examiner. In the present case, the Examiner has failed to show that Belcher teaches or suggests all of the limitations of claim 8.

The present invention, as recited by claim 8, describes a method for controlling a television signal receiver having an emergency alert function, comprising: enabling a first tuner to tune first signals including video signals when said television signal receiver is in an on mode; enabling a second tuner to tune second signals including emergency alert signals when said television signal receiver is in one of said on mode and an off/standby mode; and wherein said emergency alert function is activated if said emergency alert signals indicate an emergency event corresponding to a user selected geographical area and a user selected event type.

It is respectfully asserted that Belcher fails to disclose “a second tuner to tune second signals including emergency alert signals when said television signal receiver is in one of said on mode and an off/standby mode; and wherein said emergency alert function is activated if said emergency alert signals indicate an emergency event corresponding to a user selected geographical area and a user selected event type,” as described in independent claim 8.

In contrast, Belcher teaches a system “in a two-way cable television communications system wherein a central or master station is coupled to a plurality of remote stations through a coaxial cable network, each remote unit is provided with means for decoding an emergency alert transmission signal from the master station to generate an internal signal to sound an annunciator, alerting a subscriber or viewer at the remote station that an emergency communication is forthcoming, switching on a television receiver at the remote station, if the television receiver is not on, and tuning the television receiver through a converter to a predetermined television channel to condition the television receiver to receive emergency communications from the master station.” (Belcher Abstract)

The Office Action asserts that Belcher discloses: “1) the television signal receiver having an emergency alert function having first and second tuning means are met by the two way cable television communications system(10) including television receiver(26); tuners(27)(see: column 4, lines 1 et seq; column 5, lines 1-37).” (Office Action, page 2)

However, Belcher fails to disclose a second tuner for tuning emergency alert signals when a television signal receiver is in an on mode or an off/standby mode as asserted by the Office Action. In contrast, Belcher discloses only a single tuner that provides one type of tuning, tuning to a predetermined television channel regardless of whether the television is on or off. The single tuner, as disclosed in Belcher, is not equivalent to a first and second tuner, where the second tuner tunes second signals including emergency alert signals when

the television signal receiver is in either an on mode or an off/standby mode, as described in the present claim 8.

Belcher also fails to disclose two tuners wherein the second tuner tunes second signals including emergency alert signals where the emergency alert function is activated if the emergency alert signals indicate an emergency event corresponding to a user selected geographical area and a user selected event type. In contrast, Belcher does not disclose and is not concerned with allowing a user to select a geographical area or an event type for receiving emergency alerts. Belcher merely tunes a television tuner to a designated, and predetermined, emergency alert channel to provide the subscriber with emergency information. There is no mention in Belcher of allowing a user to customize the type of emergency information a user wishes to receive based on a user selected geographical area and event type, as described in present claim 8.

Therefore, Belcher fails to disclose “a second tuner to tune second signals including emergency alert signals when said television signal receiver is in one of said on mode and an off/standby mode; and wherein said emergency alert function is activated if said emergency alert signals indicate an emergency event corresponding to a user selected geographical area and a user selected event type,” as described in claim 8.

In view of the above remarks, it is respectfully submitted that there is no 35 USC 112 enabling disclosure provided by Belcher that makes the present invention as claimed in claim 8 unpatentable. Since dependent claims 9-14 are dependent from allowable independent claim 8, it is submitted that they too are allowable for at least the same reasons that independent claim 8 is allowable.

Claims 15-22

The invention as recited in claims 15-22 is not anticipated by Belcher, as asserted by the Examiner. In the present case, the Examiner has failed to show that Belcher teaches or suggests all of the limitations of claim 15.

The present invention, as recited by claim 15, describes a modem apparatus having an emergency alert function, comprising: a modulator operative to modulate upstream signals provided to a network; a demodulator operative to demodulate downstream signals provided from said network, said downstream signals including emergency alert signals capable of activating said emergency alert function; an alert system operative to provide an alert output when said emergency alert function is activated; and wherein said emergency

alert function is activated if said emergency alert signals indicate an emergency event corresponding to a user selected geographical area and a user selected event type.

It is respectfully asserted that Belcher fails to disclose a “modem apparatus having an emergency alert function … wherein said emergency alert function is activated if said emergency alert signals indicate an emergency event corresponding to a user selected geographical area and a user selected event type,” as described in independent claim 15.

In contrast, Belcher teaches a system “in a two-way cable television communications system wherein a central or master station is coupled to a plurality of remote stations through a coaxial cable network, each remote unit is provided with means for decoding an emergency alert transmission signal from the master station to generate an internal signal to sound an annunciator, alerting a subscriber or viewer at the remote station that an emergency communication is forthcoming, switching on a television receiver at the remote station, if the television receiver is not on, and tuning the television receiver through a converter to a predetermined television channel to condition the television receiver to receive emergency communications from the master station.” (Belcher Abstract)

The Office Action asserts that Belcher discloses: “1) the television signal receiver having an emergency alert function having first and second tuning means are met by the two way cable television communications system(10) including television receiver(26); tuners(27)(see: column 4, lines 1 et seq; column 5, lines 1-37).” (Office Action, page 2)

Belcher fails to disclose a modem apparatus comprising an emergency alert function where the emergency alert function is activated if the emergency alert signals indicate an emergency event corresponding to a user selected geographical area and a user selected event type. In contrast, Belcher does not disclose and is not concerned with allowing a user to select a geographical area or an event type for receiving emergency alerts. Belcher merely tunes a television tuner to a designated, and predetermined, emergency alert channel to provide the subscriber with emergency information. There is no mention in Belcher of allowing a user to customize the type of emergency information a user wishes to receive based on a user selected geographical area and event type, as described in present claim 15.

Therefore, Belcher fails to disclose a “modem apparatus having an emergency alert function … wherein said emergency alert function is activated if said emergency alert signals indicate an emergency event corresponding to a user selected geographical area and a user selected event type,” as described in claim 15.

In view of the above remarks, it is respectfully submitted that there is no 35 USC 112 enabling disclosure provided by Belcher that makes the present invention as claimed in claim 15 unpatentable. Since dependent claims 16-22 are dependent from allowable independent claim 15, it is submitted that they too are allowable for at least the same reasons that independent claim 15 is allowable.

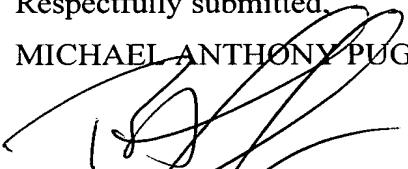
VIII CONCLUSION

Belcher fails to teach or disclose all of the limitations of the independent claims. Specifically, Belcher fails to teach a second tuning means for tuning second signals including emergency alert signals when the television signal receiver is in either an on mode or off/standby mode, wherein the emergency alert function is activated if the emergency alert signals indicate an emergency event corresponding to a user selected geographical area and a user selected event type, as is described in the present claims. Accordingly, it is respectfully submitted that the rejection of Claims 1-22 should be reversed.

Respectfully submitted,

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Attachment

Patent Operations
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August 12, 2008

APPENDIX I - APPEALED CLAIMS

1. (Previously Presented) A television signal receiver having an emergency alert function, comprising:

first tuning means for tuning first signals including video signals when said television signal receiver is in an on mode;

second tuning means for tuning second signals including emergency alert signals when said television signal receiver is in one of said on mode and an off/standby mode; and

wherein said emergency alert function is activated if said emergency alert signals indicate an emergency event corresponding to a user selected geographical area and a user selected event type.

2. (Original) The television signal receiver of claim 1, wherein said second tuning means is included in a modem apparatus.

3. (Original) The television signal receiver of claim 2, wherein said modem apparatus is internal to said television signal receiver.

4. (Original) The television signal receiver of claim 2, wherein said modem apparatus is external to said television signal receiver.

5. (Original) The television signal receiver of claim 4, wherein said modem apparatus includes alert means for providing an alert output when said emergency alert function is activated.

6. (Original) The television signal receiver of claim 5, wherein said alert means includes a visual output element.

7. (Original) The television signal receiver of claim 5, wherein said alert means includes an aural output element.

8. (Previously Presented) A method for controlling a television signal receiver having an emergency alert function, comprising:

enabling a first tuner to tune first signals including video signals when said television signal receiver is in an on mode;

enabling a second tuner to tune second signals including emergency alert signals when said television signal receiver is in one of said on mode and an off/standby mode; and

wherein said emergency alert function is activated if said emergency alert signals indicate an emergency event corresponding to a user selected geographical area and a user selected event type.

9. (Original) The method of claim 8, wherein said second tuner is included in a modem apparatus.

10. (Original) The method of claim 9, wherein said modem apparatus is internal to said television signal receiver.

11. (Original) The method of claim 9, wherein said modem apparatus is external to said television signal receiver.

12. (Original) The method of claim 11, further comprised of providing an alert output via an alert system of said modem apparatus when said emergency alert function is activated.

13. (Original) The method of claim 12, wherein said alert output includes a visual output.

14. (Original) The method of claim 12, wherein said alert output includes an aural output.

15. (Original) A modem apparatus having an emergency alert function, comprising:
a modulator operative to modulate upstream signals provided to a network;
a demodulator operative to demodulate downstream signals provided from said
network, said downstream signals including emergency alert signals capable of activating
said emergency alert function;

an alert system operative to provide an alert output when said emergency alert
function is activated; and

wherein said emergency alert function is activated if said emergency alert signals
indicate an emergency event corresponding to a user selected geographical area and a user
selected event type.

16. (Original) The modem apparatus of claim 15, wherein said alert system includes a
visual output element.

17. (Original) The modem apparatus of claim 15, wherein said alert system includes an
aural output element.

18. (Original) The modem apparatus of claim 15, wherein said network includes a
cable network.

19. (Original) The modem apparatus of claim 15, wherein said network includes a DSL
network.

20. (Original) The modem apparatus of claim 15, wherein:
said modem apparatus is operatively coupled to an external device; and
said external device provides a second alert output when said emergency alert
function is activated.

21. (Original) The modem apparatus of claim 20, wherein said external device includes
a television signal receiver.

22. (Original) The modem apparatus of claim 20, wherein said external device includes
a computer.

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Appendix II - Evidence

None.

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Appendix III – Related Proceedings

None.